

Message Text

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EUR/NE:MR. ACHILLES (PHONE)

CU/WE:MISS LASHLY (PHONE)

L/EB:MR. TALLERICO (DRAFT)

L/ECP:MR. BUSHONG (INFO)

JUSTICE:MR. DAVIDOW (SUBS)

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FM SECSTATE WASHDC

TO AMEMBASSY LONDON

UNCLAS STATE 060948

E.O. 11652: N/A

TAGS: ETRD, US, UK

SUBJECT: ANTITRUST: US/UK PUBLISHERS

REF PISTOR/STRAUS LETTER, FEBRUARY 10, 1975

1. IF EMBASSY WISHES RESPOND TO PUBLISHER ADRIAN HOUSE'S PROTEST CONCERNING JUSTICE DEPARTMENT CIVIL ANTITRUST SUIT AGAINST U.S. AND BRITISH PUBLISHERS, SUGGEST YOU REFER FIRST TO STATE 251658 OF NOVEMBER 14, 1974 AND TO ECONOMIC COUNSELOR'S OFFICE FOR BACKGROUND ON THE CASE. DEPARTMENT IS AIR POUCHING ADDITIONAL BACKGROUND MATERIAL TO PISTOR.

2. DEPARTMENT IS ALSO POUCHING A MARCH 11 MEMORANDUM FROM THE JUSTICE DEPARTMENT WHICH RESPONDS TO PUBLISHER HOUSE'S COMPLAINTS. JUSTICE MEMO STATES THAT THE LAWSUIT DOES NOT CHALLENGE ANY PARTICULAR BOOK LICENSE OR CHARGE THAT NATIONAL EXCLUSIVES ARE ILLEGAL. THE SUIT ATTACKS INSTEAD, A "CONSPIRACY AMONG MANY PUBLISHERS WHICH RESTRICTS THE BARGAINING FREEDOM OF EACH PUBLISHER AND PREVENTS LICENSING PATTERNS FROM ADAPTING TO CHANGING WORLD ECONOMIC AND POLITICAL CONDITIONS."

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3. JUSTICE MEMO STATES THAT MANY U.S. PUBLISHERS HAVE INDICATED THEIR INTEREST IN SETTLING THE CASE ON TERMS QUITE SIMILAR TO THOSE SOUGHT BY JUSTICE DEPARTMENT. THE BRITISH PUBLISHERS ASSOCIATION HAS ALSO EXPRESSED ITS INTEREST IN DISCUSSING SETTLEMENT. A MEETING BETWEEN OFFICIALS OF THE ASSOCIATION AND JOEL DAVIDOW, CHIEF, FOREIGN COMMERCE SECTION, ANTITRUST DIVISION, JUSTICE DEPARTMENT, IS SCHEDULED FOR APRIL 4 IN LONDON. A COPY OF A LETTER FROM THE ASSOCIATION TO DAVIDOW CONCERNING THAT MEETING IS ALSO BEING POUCHED.

4. JUSTICE MEMO ALSO INCLUDES A BRIEF DESCRIPTION OF A PROPOSED CONSENT JUDGMENT. IF AN EARLY RESPONSE TO PUBLISHER HOUSE IS CONSIDERED ESSENTIAL, EMBASSY MAY DRAW ON THE JUSTICE MEMO FOR THAT PURPOSE. IF A PROMPT RESPONSE IS NOT NEEDED, HOWEVER, IT WOULD BE ADVISABLE TO WAIT UNTIL DAVIDOW VISIT.

5. BRITISH EMBASSY COMMERCIAL MINISTER CORTAZZI RECENTLY INQUIRED ABOUT THE BOOK PUBLISHERS CASE, EMPHASIZING HIS GOVERNMENT'S CONCERN THAT PROVISIONS OF THE EVENTUAL SETTLEMENT "SHOULD NOT IMPINGE UPON RIGHTS OF EXCLUSIVITY, FOR EXAMPLE, ON THE FREEDOM OF THE OWNER OF AN EXCLUSIVE PUBLISHING RIGHT TO LICENSE IT TO ANOTHER IN RESPECT OF ANY PARTICULAR TERRITORY." DEPARTMENT RESPONDED WITH INFORMATION CONTAINED IN THIS TELEGRAM AND JUSTICE MEMO.

6. DAVIDOW WILL CALL ECONOMIC COUNSELOR'S OFFICE EARLY IN HIS STAY TO DETERMINE WHETHER HE CAN PROVIDE EMBASSY WITH ADDITIONAL INFORMATION OR ASSISTANCE. INGERSOLL

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